

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 20, 2014

AMENDED IN ASSEMBLY MARCH 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1433

**Introduced by Assembly Member Gatto
(Principal coauthors: Assembly Members Lowenthal and Weber)
(Coauthors: Assembly Members Brown, Campos, Chávez,
Quirk-Silva, Ting, Wieckowski, and Yamada)**

January 6, 2014

An act to amend Section 67380 of, and to add Section 67383 to, the Education Code, relating to student safety, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1433, as amended, Gatto. Student safety.

Existing law requires the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing boards of postsecondary educational institutions receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of specified crimes and noncriminal acts reported to campus police, campus security personnel, campus safety authorities, or designated campus authorities. This provision does not apply to the governing boards of private postsecondary educational institutions with fewer than 1,000 students, or to campuses of public postsecondary educational systems with 1,000 or fewer students. This provision also

does not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for purposes of this provision.

This bill would require any report by a victim of a Part 1 violent crime, sexual assault, or hate crime, as defined, received by a campus law enforcement agency to be immediately, *or as soon as practicably possible*, disclosed to the appropriate local law enforcement agency without identifying the victim, unless the victim consents to being identified. *The bill would prohibit a report to a local law enforcement agency from identifying the alleged assailant if the victim does not consent to being identified.* By creating new duties for community college districts, this bill would impose a state-mandated local program.

This bill would provide that the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each private and independent postsecondary institution shall, on or before July 1, 2015, adopt and implement written policies and procedures to ensure that any report of a Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, received by any ~~employee~~ employee, and made by the victim for purposes of notifying the institution or law enforcement, is immediately forwarded to the appropriate law enforcement agency, as provided. The bill would require that the report be forwarded to the appropriate law enforcement agency without identifying the victim, unless the victim consents to being identified. By imposing additional duties on community college districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 67380 of the Education Code is amended to read:

67380. (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance shall do all of the following:

(1) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(A) All occurrences reported to campus police, campus security personnel, or campus safety authorities of, and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(B) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(2) Require any written record of a noncriminal act of hate violence to include, but not be limited to, the following:

(A) A description of the act of hate violence.

(B) Victim characteristics.

(C) Offender characteristics, if known.

(3) (A) Make the information concerning the crimes compiled pursuant to subparagraph (A) of paragraph (1) available within two business days following the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions, or to the media, unless the information is the type of information exempt from disclosure pursuant to subdivision (f) of Section 6254 of the Government Code, in which case the information is not required to be disclosed. Notwithstanding paragraph (2) of subdivision (f) of Section 6254 of the Government Code, the name of a victim of any crime defined by Section 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed without the permission of the victim, or the victim's parent or guardian if the victim is a minor.

(B) For purposes of this paragraph and subparagraph (A) of paragraph (1), the campus police, campus security personnel, and campus safety authorities described in subparagraph (A) of paragraph (1) shall be included within the meaning of “state or local police agency” and “state and local law enforcement agency,” as those terms are used in subdivision (f) of Section 6254 of the Government Code.

(4) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on ~~request~~, *request* a campus safety plan that sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For the purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure that is made generally available to students.

(5) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to paragraph (1) relating to hate violence to the governing board, trustees, board of directors, or regents, as the case may be. The governing board, trustees, board of directors, or regents, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, transmit a report containing a compilation of that information to the Legislative ~~Analyst~~ *Analyst’s Office* no later than January 1 of each year and shall make the report available to the general public on the Internet Web site of each respective institution. It is the intent of the Legislature that the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher education be as consistent with each other as possible. These guidelines shall be developed in consultation with the Department of Fair

1 Employment and Housing and the California Association of Human
2 Rights Relations Organizations.

3 (6) Require any report made by a victim or an employee
4 pursuant to Section 67383 of a Part 1 violent crime, sexual assault,
5 or hate ~~crime~~ *crime*, as described in Section 422.55 of the Penal
6 Code, received by a campus law enforcement ~~agency~~, *agency* to
7 be immediately, *or as soon as practicably possible*, disclosed to
8 the local law enforcement agency with which the institution has a
9 written agreement pursuant to Section ~~67381~~, *67381* without
10 identifying the victim, unless the victim consents to being
11 identified. *If the victim does not consent to being identified, the*
12 *alleged assailant shall not be identified in the information disclosed*
13 *to the local law enforcement agency.*

14 (b) Any person who is refused information required to be made
15 available pursuant to subparagraph (A) of paragraph (1) of
16 subdivision (a) may maintain a civil action for damages against
17 any institution that refuses to provide the information, and the
18 court shall award that person an amount not to exceed one thousand
19 dollars (\$1,000) if the court finds that the institution refused to
20 provide the information.

21 (c) For purposes of this section:

22 (1) "Hate violence" means any act of physical intimidation or
23 physical harassment, physical force or physical violence, or the
24 threat of physical force or physical violence, that is directed against
25 any person or group of persons, or the property of any person or
26 group of persons because of the ethnicity, race, national origin,
27 religion, sex, sexual orientation, gender identity, gender expression,
28 disability, or political or religious beliefs of that person or group.

29 (2) "Part 1 violent crime" means willful homicide, forcible rape,
30 robbery, or aggravated assault, as defined in the Uniform Crime
31 Reporting Handbook of the Federal Bureau of Investigation.

32 (3) "Sexual assault" includes, but is not limited to, rape, forced
33 sodomy, forced oral copulation, rape by a foreign object, sexual
34 battery, or *the* threat of any of these.

35 (d) This section does not apply to the governing board of a
36 private postsecondary educational institution receiving funds for
37 student financial assistance with a full-time enrollment of less than
38 1,000 students.

39 (e) This section shall apply to a campus of one of the public
40 postsecondary educational systems identified in subdivision (a)

1 only if that campus has a full-time equivalent enrollment of more
2 than 1,000 students.

3 (f) Notwithstanding any other provision of this section, this
4 section shall not apply to the California Community Colleges
5 unless and until the Legislature makes funds available to the
6 California Community Colleges for the purposes of this section.

7 SEC. 2. Section 67383 is added to the Education Code, to read:

8 67383. (a) The governing board of each community college
9 district, the Trustees of the California State University, the Regents
10 of the University of California, and the governing board of each
11 private and independent postsecondary institution shall, on or
12 before July 1, 2015, adopt and implement written policies and
13 procedures to ensure that any report of a Part 1 violent crime,
14 sexual assault, or hate crime, committed on or off campus, received
15 by any ~~employee~~ employee, and made by the victim for purposes
16 of notifying the institution or law enforcement, is immediately
17 forwarded to the appropriate law enforcement agency.

18 (b) The report shall be forwarded to the appropriate law
19 enforcement agency without identifying the victim, unless the
20 victim consents to being identified.

21 (c) For purposes of this section, the appropriate law enforcement
22 agency shall be a campus law enforcement agency if one has been
23 established on the campus where the report was made. If no campus
24 law enforcement agency has been established, the report shall be
25 immediately forwarded to a local law enforcement agency.

26 (d) ~~As used in this section, the following terms have the~~
27 ~~following meanings:~~ *For purposes of this section:*

28 (1) "Hate crime" means any offense as described in Section
29 422.55 of the Penal Code.

30 (2) "Local law enforcement agency" means a city or county law
31 enforcement agency with operational responsibilities for police
32 services in the community in which a campus is located.

33 (3) "Part 1 violent crime" means willful homicide, forcible rape,
34 robbery, or aggravated assault, as defined in the Uniform Crime
35 Reporting Handbook of the Federal Bureau of Investigation.

36 (4) "Sexual assault" includes, but is not limited to, rape, forced
37 sodomy, forced oral copulation, rape by a foreign object, sexual
38 battery, or *the* threat of any of these.

39 SEC. 3. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 SEC. 4. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to ensure student safety by requiring the effective
9 reporting of Part 1 violent crimes and hate-crimes, *crimes* at the
10 earliest possible time, it is necessary that this act take effect
11 immediately.